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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/786,581	08/09/2001	Dirk Vanderzande	1998/F-101	1432

23416 7590 09/02/2005

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EXAMINER
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LAMBKIN, DEBORAH C

ART UNIT	PAPER NUMBER
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1626

DATE MAILED: 09/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/786,581

Applicant(s)

VANDERZANDE ET AL.

Examiner

Deborah C. Lambkin

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 August 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-51 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-51 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

DEBORAH C. LAMBKIN  
PRIMARY EXAMINER

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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### **DETAILED ACTION**

Applicant should note that the specification is missing from this application.

#### ***Election/Restrictions***

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) drawn to compounds and process of making wherein Ar is phenyl substituted or unsubstituted, R3 does not optionally contain a heteroatom, and R4 and R5 do not form a ring.

Group II, claim(s) drawn to compounds and process of making wherein Ar is phenyl substituted or unsubstituted, R3 does contain a heteroatom but only in it's non-ring groups, and R4 and R5 do not form a ring .

Group III, claim(s) drawn to compounds and process of making wherein Ar is phenyl substituted or unsubstituted, R3 does contain a heteroatom in it's ring groups wherein further the heteroatom is oxygen, and R4 and R5 do not form a ring.

Group IV, claim(s) drawn to compounds and process of making wherein Ar is phenyl substituted or unsubstituted, R3 does optionally contain a heteroatom in it's ring groups wherein the heteroatom is sulfur, and R4 and R5 do not form a ring.

Group V, claim(s) drawn to compounds and process of making wherein Ar is phenyl substituted or unsubstituted, R3 does optionally contain a heteroatom in it's ring groups wherein the heteroatom is nitrogen, and R4 and R5 do not form a ring.

Group VI, claim(s) drawn to compounds and process of making wherein Ar is phenyl substituted or unsubstituted, R3 does optionally contain a heteroatom in it's ring groups wherein the heteratom is a combination of O and S, and R4 and R5 do not form a ring.

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Group VII, claim(s) drawn to compounds and process of making wherein Ar is phenyl sub or unsub, R3 contains a heteroatom in it's ring groups wherein the heteroatom is a combination of O and N, and R4 and R5 do not form a ring.

Group VIII, claim(s) drawn to compounds and process of making wherein Ar is phenyl sub or unsub, R3 contains a heteroatom in it's ring groups wherein the heteroatom is a combination of S and N, and R4 and R5 do not form a ring.

Group IX, claim(s) drawn to compounds and process of making wherein Ar is phenyl sub or unsub, R3 contains a heteroatom in it's ring groups wherein the heteroatom is a combination of O, S and N, and R4 and R5 do not form a ring.

Group X, claim(s) drawn to compounds and process of making wherein Ar is phenyl sub or unsub, R3 does not contain a heteroatom, and R4 and R5 form a ring with O.

Group XI, claim(s) drawn to compounds and process of making wherein Ar is phenyl sub or unsub, R3 does not contain a heteroatom, and R4 and R5 form a ring with S.

Group XII, claim(s) drawn to compounds and process of making wherein Ar is phenyl sub or unsub, R3 does not contain a heteroatom, and R4 and R5 form a ring with N.

Group XIII, claim(s) drawn to compounds and process of making wherein Ar is phenyl sub or unsub, R3 does not contain a heteroatom, and R4 and R5 form a ring with combinations of O and S or O and N or S and N or O, S and N.

Group XIV, claim(s) drawn to compounds and process of making wherein Ar is phenyl, R3 does contain a heteroatom, and R4 and R5 form a ring with combinations of O, S and N.

Group XV, claim(s) drawn to compounds and process of making wherein Ar is thiophene sub or unsub, R3 does not contain any heteroatoms, and R4 and R5 do not form a ring.

Group XVI, claim(s) drawn to compounds and process of making wherein Ar is thiophene sub or unsub, R3 does contain heteroatoms but only in it's non-ring groups, and R4 and R5 does not form a ring.

Group XVII, claim(s) drawn to compounds and process of making wherein Ar is thiophene sub or unsub, R3 does contain heteroatoms but only in it's ring group wherein the heteroatom is O, and R4 and R5 do not form a ring.

Group XVIII, claim(s) drawn to compounds and process of making wherein Ar is thiophene sub or unsub, R3 contains the heteroatom S in it's ring groups, and R4 and R5 do not form a ring.

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Group XIX, claim(s) drawn to compounds and process of making wherein Ar is thiophene sub or unsub, R3 contains the heteroatom N in it's ring groups, and R4 and R5 do not form a ring.

Group XX, claim(s) drawn to compounds and process of making wherein Ar is thiophene sub or unsub, R3 contains combination of the heteroatoms O, S and N in it's ring groups, and R4 and R5 do not form a ring.

Group XXI, claim(s) drawn to compounds and process of making wherein Ar is thiophene sub or unsub, R3 does not contain heteroatoms, and R4 and R5 form a ring.

Group XXII, claim(s) drawn to compounds and process of making wherein Ar is thiophene sub or unsub, R3 does contain heteroatoms, and R4 and R5 form a ring.

Group XXIV, claim(s) drawn to compounds and process of making wherein Ar is not phenyl or thiophene sub or unsub and the rest of the compound is as defined.

The inventions listed as Groups I-XXIV do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

MPEP 1850 D re "Markush Practice" states that two criteria must be met, (A) All alternatives have a common property or activity; and (B)(1) A common structure is present, i.e., a significant structural element is shared by all of the alternatives; or (C)(2) In cases where the common structure cannot be a unifying criteria, all alternatives belong to a recognized class of chemical compounds in the art to which the invention pertains.

In this case criteria (A) is met but not (B) or (C) since neither is the core a large portion or significant structural element nor is it novel in view of the existing prior art or all the members do not belong to a recognized class of chemical compounds.

Applicant is also requested to elect a single disclosed species that falls within one of the elected groups above for examination purposes only.


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Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Deborah C. Lambkin whose telephone number is 571-272-0698.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph McKane, can be reached on 571-272-0699.

  
DEBORAH C. LAMBKIN  
PRIMARY EXAMINER  
Deborah C. Lambkin  
Primary Patent Examiner  
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